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SENATE BILL

No. 388

Introduced by Senator Calderon

February 26, 2009

~~An act to add Section 66407 to the Education Code, relating to college textbooks.~~ *An act to add and repeal Section 2830.1 of the Public Utilities Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 388, as amended, Calderon. ~~Educational materials.~~ *Renewable energy resources.*

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law authorizes a local government, as defined, to receive a bill credit, as defined, to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account. The existing definition of a local government excludes a joint powers authority, the state, and any agency or department of the state. The existing definition of a "bill credit"

provides that the amount of the credit is based upon the time-of-use electricity generation component of the electricity usage charge of the generating account.

This bill, until January 1, 2013, would authorize a local government that is or is within an economically distressed county, as defined, to receive a bill credit to a designated benefiting account for electricity exported to the electrical grid by an eligible photovoltaic generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account. The bill would include an individual community college campus, California State University campus, or a University of California campus within the definition of a local government and would define a bill credit so that the amount of the credit is based upon the time-of-use electricity usage charge of the generating account and not the electricity component of the charge. The bill would provide that a local government electing to take service pursuant to the rate tariff is eligible to receive ratepayer funded incentives pursuant to the California Solar Initiative, as defined, for facilities that are sized to meet the onsite load and the load of the designated benefiting account.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime. Because the provisions of this bill would require an order or other action of the commission to implement, and a violation of that order or action would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Donahoe Higher Education Act authorizes the activities of the 4 segments of the postsecondary education system in the state. These segments include the 3 public postsecondary segments: the University of California, which is administered by the Regents of the University of California, the California State University, which is administered by the Trustees of the California State University, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges. Private and independent postsecondary educational institutions constitute the other segment.~~

~~Existing law urges textbook publishers to take specified actions aimed at reducing the amounts that students pay for textbooks. Existing law requires the Trustees of the California State University and the Board of Governors of the California Community Colleges, and requests the Regents of the University of California, among other things, to work with the academic senates of each respective segment to encourage faculty to give consideration to the least costly practices in assigning textbooks, to encourage faculty to disclose to students how new editions of textbooks are different from previous editions and the cost to students for textbooks selected, to review procedures for faculty to inform college and university bookstores of textbook selections, and to encourage faculty to work closely with publishers and college and university bookstores in creating bundles and packages that are economically sound.~~

~~Existing law expresses the intent of the Legislature to encourage private colleges and universities to work with their respective academic senates, and to encourage faculty to consider practices in selecting textbooks that will result in the lowest costs to students.~~

~~Existing law requires textbook publishers, for textbooks published on or after January 1, 2010, to print a summary of the substantive content differences between the new edition and any prior addition on, or within, the cover of the textbook, as well as the copyright date of the previous edition.~~

~~Existing law prohibits those responsible for choosing course materials and adopting textbooks at an institution of higher education from demanding or receiving anything of value for adopting specific course materials required for coursework instruction.~~

~~This bill would enact the Accountability in College Textbook Publishing Practices Act, as part of the Donahoe Higher Education Act, which would require any publisher of college textbooks or supplemental materials, as defined, to make the price of the textbooks or supplemental materials available on its Internet Web site, to charge no more than the price shown on its Internet Web site on the date that an order is received, and if the price is otherwise changed, to include the amount of the change and the date of the change on its Internet Web site. The bill would also require a publisher to provide bundled textbooks and supplemental material separately.~~

~~This bill would allow an action for an injunction to be brought against a publisher in superior court for violating these provisions. The bill would state that it would become operative on July 1, 2010.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2830.1 is added to the Public Utilities
2 Code, to read:
3 2830.1. (a) *It is the intent of the Legislature to promote*
4 *investment in photovoltaic distributed generation by local*
5 *governments in economically distressed counties by expanding*
6 *the incentives available pursuant to Section 2830, but subject to*
7 *the 250-megawatt limitation of subdivision (h) of that section.*
8 (b) *As used in this section, the following terms have the following*
9 *meanings:*
10 (1) *“Benefiting account” means an electricity account, or more*
11 *than one account, located within the geographical boundaries of*
12 *a local government, that is mutually agreed upon by the local*
13 *government and an electrical corporation.*
14 (2) *“Bill credit” means an amount of money credited to a*
15 *benefiting account that is calculated based upon the time-of-use*
16 *electricity usage charge of the generating account, multiplied by*
17 *the quantities of electricity generated by an eligible photovoltaic*
18 *generating facility that are exported to the grid during the*
19 *corresponding time period. Electricity is exported to the grid if it*
20 *is generated by an eligible photovoltaic generating facility, is not*
21 *utilized onsite by the local government, and the electricity flows*
22 *through the meter site and on to the electrical corporation’s*
23 *distribution or transmission infrastructure.*
24 (3) *“Economically distressed county” means a county that with*
25 *an unemployment rate of 10 percent or more as determined by the*
26 *Economic Development Department as of January 1, 2010.*
27 (4) *“Eligible photovoltaic generating facility” means a*
28 *photovoltaic solar collector or other photovoltaic solar energy*
29 *device that has a generating capacity of no more than one*
30 *megawatt, is located within the geographical boundary of, and is*
31 *owned, operated, or on property under the control of, the local*
32 *government, and is sized to offset all or part of the electrical load*
33 *of the benefiting account. The geographic boundary of an*
34 *individual community college campus, California State University*
35 *campus, or University of California campus shall be the limits of*

1 *the city, county, or city and county in which each is located. For*
2 *these purposes, premises that are leased by a local government*
3 *are under the control of the local government.*

4 (5) *“Generating account” means the time-of-use electric service*
5 *account of the local government where the eligible photovoltaic*
6 *generating facility is located.*

7 (6) *“Local government” means a city, county, whether general*
8 *law or chartered, city and county, special district, school district,*
9 *political subdivision, or an individual community college campus,*
10 *California State University campus, or University of California*
11 *campus, or other local public agency, that is located within an*
12 *economically distressed county, but shall not mean a joint powers*
13 *authority, the state or any agency or department of the state, other*
14 *than a campus of the University of California or the California*
15 *State University.*

16 (c) *Subject to the limitation in subdivision (h) of Section 2830,*
17 *a local government may elect to receive electric service pursuant*
18 *to this section, if all of the following conditions are met:*

19 (1) *The local government is itself an economically distressed*
20 *county, or is geographically located within an economically*
21 *distressed county.*

22 (2) *The local government designates one or more benefiting*
23 *accounts to receive a bill credit.*

24 (3) *A benefiting account receives service under a time-of-use*
25 *rate schedule.*

26 (4) *The benefiting account is the responsibility of, and serves*
27 *property that is owned, operated, or on property under the control*
28 *of the same local government that owns, operates, or controls the*
29 *eligible photovoltaic generating facility.*

30 (5) *The electrical output of the eligible photovoltaic generating*
31 *facility is metered for time of use to allow calculation of the bill*
32 *credit based upon when the electricity is exported to the grid.*

33 (6) *All costs associated with the metering requirements of*
34 *paragraphs (2) and (4) are the responsibility of the local*
35 *government.*

36 (7) *All costs associated with interconnection are the*
37 *responsibility of the local government. For purposes of this*
38 *paragraph, “interconnection” has the same meaning as defined*
39 *in Section 2803, except that it applies to the interconnection of an*

1 *eligible photovoltaic generating facility rather than the energy*
2 *source of a private energy producer.*

3 *(8) The local government does not sell electricity exported to*
4 *the electrical grid to a third party.*

5 *(9) All electricity generated by the eligible photovoltaic*
6 *generating facility shall be counted toward the electrical*
7 *corporation's total retail sales procurement requirements, but not*
8 *incremental procurement requirements, pursuant to Article 16*
9 *(commencing with Section 399.11) of Chapter 2.3 of Part 1.*
10 *Ownership of the renewable energy credits, as defined in Section*
11 *399.12, associated with electricity generated by the eligible*
12 *photovoltaic generating facility shall be the property of the*
13 *electrical corporation.*

14 *(d) (1) A benefiting account shall be billed for all electricity*
15 *usage, and for each bill component, at the rate schedule applicable*
16 *to the benefiting account, including any cost-responsibility*
17 *surcharge or other cost recovery mechanism, as determined by*
18 *the commission, to reimburse the Department of Water Resources*
19 *for purchases of electricity, pursuant to Division 27 (commencing*
20 *with Section 80000) of the Water Code.*

21 *(2) The bill shall then subtract the bill credit applicable to the*
22 *benefiting account. The amount credited to the benefiting account*
23 *may not include the cost-responsibility surcharge or other cost*
24 *recovery mechanism, as determined by the commission, to*
25 *reimburse the Department of Water Resources for purchases of*
26 *electricity, pursuant to Division 27 (commencing with Section*
27 *80000) of the Water Code. The electrical corporation shall ensure*
28 *that the local government receives the full bill credit.*

29 *(3) If, during the billing cycle, the electricity usage charges*
30 *exceed the bill credit, the benefiting account shall be billed for the*
31 *difference.*

32 *(4) If, during the billing cycle, the bill credit applied pursuant*
33 *to paragraph (2) exceeds the electricity usage charges, the*
34 *difference shall be carried forward as a financial credit to the next*
35 *billing cycle.*

36 *(5) After the electricity usage charge pursuant to paragraph*
37 *(1) and the credit pursuant to paragraph (2) are determined for*
38 *the last billing cycle of a 12-month period, any remaining credit*
39 *resulting from the application of this section shall be reset to zero.*

1 (e) *The commission shall ensure that costs associated with the*
2 *transfer of a bill credit to a benefiting account do not result in a*
3 *shifting of costs to bundled service subscribers. The costs*
4 *associated with the transfer of a bill credit shall include all*
5 *billing-related expenses.*

6 (f) *Not more frequently than once per year, and upon providing*
7 *the electrical corporation with a minimum of 60 days' notice, the*
8 *local government may elect to change a benefiting account. Any*
9 *credit resulting from the application of this section earned prior*
10 *to the change in a benefiting account that has not been used as of*
11 *the date of the change in the benefiting account, shall be applied,*
12 *and may only be applied, to a benefiting account as changed.*

13 (g) *A local government shall provide the electrical corporation*
14 *to which the eligible photovoltaic generating facility will be*
15 *interconnected with not less than 60 days' notice prior to the*
16 *eligible photovoltaic generating facility becoming operational.*
17 *The electrical corporation shall file an advice letter with the*
18 *commission, that complies with this section, not later than 30 days*
19 *after receipt of the notice, proposing a rate tariff for a benefiting*
20 *account. The commission, within 30 days of the date of filing, shall*
21 *approve the proposed tariff, or specify conforming changes to be*
22 *made by the electrical corporation to be filed in a new advice*
23 *letter.*

24 (h) *The local government may terminate its election pursuant*
25 *to subdivision (b), upon providing the electrical corporation with*
26 *a minimum of 60 days' notice. Should the local government sell*
27 *its interest in the generating account, or sell the electricity*
28 *generated by the eligible photovoltaic generating facility, in a*
29 *manner other than required by this section, upon the date of either*
30 *event, and the earliest date if both events occur, no further bill*
31 *credit pursuant to paragraph (3) of subdivision (b) may be earned.*
32 *Only credit earned prior to that date shall be made to a benefiting*
33 *account.*

34 (i) *An eligible photovoltaic generation facility is an eligible*
35 *renewable generating facility for purposes of the 250-megawatt*
36 *limitation of subdivision (h) of Section 2830. An electrical*
37 *corporation is not obligated, pursuant to this section, to provide*
38 *a bill credit to a benefiting account that is not designated by a*
39 *local government prior to the point in time that the combined*
40 *statewide cumulative rated generating capacity of all eligible*

1 renewable generating facilities, as defined in Section 2830, and
2 eligible photovoltaic within the service territories of the state's
3 three largest electrical corporations reaches 250 megawatts. Each
4 electrical corporation shall only be required to offer service or
5 contracts under this section until that electrical corporation
6 reaches its proportionate share of the 250-megawatt limitation
7 based on the ratio of its peak demand to the total statewide peak
8 demand of all electrical corporations.

9 (j) A local government electing to take service pursuant to
10 subdivision (b) is eligible to receive ratepayer funded incentives
11 pursuant to the California Solar Initiative for facilities that are
12 sized to meet the onsite load and the load of the designated
13 benefiting account. For purposes of this subdivision, "California
14 Solar Initiative" means the program providing ratepayer funded
15 incentives for eligible solar energy systems adopted by the Public
16 Utilities Commission in Decision 05-12-044 and Decision
17 06-01-024, as modified by Chapter 8.8 (commencing with Section
18 25780) of Division 15 of the Public Resources Code and Article
19 1 (commencing with Section 2851) of Chapter 9.

20 (k) This section shall remain in effect only until January 1, 2013,
21 and as of that date is repealed, unless a later enacted statute, that
22 is enacted before January 1, 2013, deletes or extends that date.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

32 SECTION 1. ~~Section 66407 is added to the Education Code,~~
33 ~~to read:~~

34 ~~66407. (a) This section shall be known and may be cited as~~
35 ~~the Accountability in College Textbook Publishing Practices Act.~~

36 ~~(b) It is the intent of the Legislature that every student seeking~~
37 ~~a higher education in the state is offered affordable access to course~~
38 ~~materials and to do all of the following:~~

39 ~~(1) To encourage textbook publishers and distributors to work~~
40 ~~with faculty to promote understanding of the cost to students of~~

1 purchasing faculty selected textbooks, including the disclosure of
2 prices and bundling practices.

3 ~~(2) To encourage innovation in the development and use of~~
4 ~~course materials, including open textbooks and other open~~
5 ~~educational resources, that can help students receive the full value~~
6 ~~of their educational investment without excessive cost.~~

7 ~~(3) To ensure that faculty members are informed of accurate~~
8 ~~and relevant pricing information for course materials and that~~
9 ~~students are protected as a consumer group.~~

10 ~~(4) To strengthen and enforce existing federal regulations.~~

11 ~~(e) As used in this section, the following terms have the~~
12 ~~following meanings:~~

13 ~~(1) “Bundle” means one or more college textbooks or other~~
14 ~~supplemental learning materials that may be packaged together to~~
15 ~~be sold as course material for one price.~~

16 ~~(2) “Campus bookstore” means the bookstore on the campus~~
17 ~~of, or otherwise associated with, an institution of higher education.~~

18 ~~(3) “College textbook” means a textbook or set of textbooks~~
19 ~~used for, or in conjunction with, a course at an institution of higher~~
20 ~~education.~~

21 ~~(4) “Custom textbook” means a college textbook that is~~
22 ~~compiled by a publisher at the direction of a faculty member or~~
23 ~~other person or adopting entity in charge of selecting course~~
24 ~~materials at an institution of higher education and may include,~~
25 ~~alone or in combination, items such as selections from original~~
26 ~~instructor materials, previously copyrighted publisher materials,~~
27 ~~copyrighted third-party works, and elements unique to a specific~~
28 ~~institution, such as commemorative editions.~~

29 ~~(5) “Publisher” means a publisher of college textbooks or~~
30 ~~supplemental materials that markets college textbooks or~~
31 ~~supplemental materials to faculty members at institutions of higher~~
32 ~~education.~~

33 ~~(6) “Substantial content” means parts of a college textbook,~~
34 ~~such as new chapters, additional eras of time, new themes, or new~~
35 ~~subject matter.~~

36 ~~(7) “Supplemental material” means educational material~~
37 ~~developed to accompany a college textbook, which may include~~
38 ~~printed materials, computer disks, Internet Web site access, and~~
39 ~~electronically distributed materials.~~

1 ~~(8) For purposes of this section, “writing” includes electronic~~
2 ~~communications.~~

3 ~~(d) If a publisher provides a faculty member or entity in charge~~
4 ~~of selecting course materials at an institution of higher education~~
5 ~~with information regarding a college textbook or supplemental~~
6 ~~material, the publisher shall also communicate whether the college~~
7 ~~textbook or supplemental material is available in any other format,~~
8 ~~including paperback or unbound, and the price at which the~~
9 ~~publisher would make the college textbook or supplemental~~
10 ~~material in the other format available.~~

11 ~~(e) A publisher shall do all of the following:~~

12 ~~(1) Make the price at which the textbook or supplemental~~
13 ~~material is made available to the institution’s campus bookstore~~
14 ~~available on the publisher’s Internet Web site.~~

15 ~~(2) Charge no more than the price shown on the publisher’s~~
16 ~~Internet Web site on the date that the order is received from the~~
17 ~~institution’s campus bookstore by the publisher.~~

18 ~~(3) If a publisher provides a faculty member or entity in charge~~
19 ~~of selecting course material at an institution of higher education~~
20 ~~with the price at which the publisher would make the college~~
21 ~~textbook or supplemental material available to the institution’s~~
22 ~~campus bookstore, and after a price is provided, but before an~~
23 ~~order is placed, the publisher changes the price at which it will~~
24 ~~make a textbook or supplemental material available to the~~
25 ~~institution’s campus bookstore, the publisher shall make~~
26 ~~information available on its Internet Web site regarding the amount~~
27 ~~of the change in price, whether the price was increased or~~
28 ~~decreased, and the date or dates when the price was changed.~~

29 ~~(f) A publisher that sells a college textbook and any~~
30 ~~supplemental material as a bundle shall also make the college~~
31 ~~textbook and each item of supplemental material available, as~~
32 ~~separate and unbundled items at separate prices.~~

33 ~~(g) If a faculty member or entity in charge of selecting course~~
34 ~~materials at an institution of higher education directs a publisher~~
35 ~~to compile a custom textbook or bundle, the publisher shall provide,~~
36 ~~in writing, prior to accepting an order for the custom textbook or~~
37 ~~bundle, the price at which the publisher would make the custom~~
38 ~~textbook or bundle available to the campus bookstore.~~

- 1 ~~(h) Any publisher violating any of the provisions of this section~~
- 2 ~~may be enjoined by any superior court of competent jurisdiction~~
- 3 ~~upon action for an injunction.~~
- 4 ~~(i) This section shall become operative on July 1, 2010.~~

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